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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO		
10/629,960	07/30/2003	Taek-Rim Yoon	12109.81US01	8893		
52835	7590 06/20/2006		EXAM	INER		
	CHUMANN, MUELLER	& LARSON, P.C.	SHAFFER, R	SHAFFER, RICHARD R		
P.O. BOX 29 MINNEAPO	902-0902 DLIS, MN 55402		ART UNIT	PAPER NUMBER		
	,		3733			
			DATE MAILED: 06/20/2006	6		

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)	
	10/629,960	YOON, TAEK-RIM	
Office Action Summary	Examiner	Art Unit	
	Richard R. Shaffer	3733	
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet wi	th the correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNION (136(a). In no event, however, may a rewill apply and will expire SIX (6) MON (6), cause the application to become AB	CATION. Peply be timely filed THS from the mailing date of this communication ANDONED (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on 24 A			
,—	s action is non-final.		
3) Since this application is in condition for allowa			IS
closed in accordance with the practice under l	Ex parte Quayle, 1935 C.D	. 11, 453 O.G. 213.	
Disposition of Claims			
4) Claim(s) 1 is/are pending in the application.			
4a) Of the above claim(s) is/are withdra	wn from consideration.		
5) Claim(s) is/are allowed.			
6)⊠ Claim(s) <u>1</u> is/are rejected.			
7) Claim(s) is/are objected to.			
8) Claim(s) are subject to restriction and/o	or election requirement.		
Application Papers			
9) The specification is objected to by the Examine	er.		
10)☐ The drawing(s) filed on is/are: a)☐ acc	cepted or b) objected to	by the Examiner.	
Applicant may not request that any objection to the	drawing(s) be held in abeyar	ice. See 37 CFR 1.85(a).	
Replacement drawing sheet(s) including the correct			(d).
11) The oath or declaration is objected to by the E	xaminer. Note the attached	d Office Action or form PTO-152.	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign	n priority under 35 U.S.C. §	119(a)-(d) or (f).	
a) ☐ All b) ☐ Some * c) ☐ None of:			
 Certified copies of the priority documen 	ts have been received.		
2. Certified copies of the priority documen			
3. Copies of the certified copies of the price		received in this National Stage	
application from the International Burea		ivad	
* See the attached detailed Office action for a list	t of the certified copies not	received.	
Attachment(s)			
1) X Notice of References Cited (PTO-892)		Summary (PTO-413)	
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 		s)/Mail Date nformal Patent Application (PTO-152)	
Paper No(s)/Mail Date		nur from J Orthop Trauma.	

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed did not include the negative limitation of removing the trochanteric area while not removing the subtrochanteric area.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Figures 4-6 devoted to applicant's method clearly show a cut extending substantially along the longitudinal axis of the femur thus extending through the subtrochanteric area as argued by applicant in the remarks against Sioufi.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Sioufi (US Patent 5,409,489). Sioufi discloses an instrument for sub-trochanteric (according to their specification) rotational osteotomy (**Figure 2**) that does not detach the greater trochanter (~0) because it bores a cone through the head of the femur detaching only the ball (~1). With the screw (7), it is able to rotate the head until the damaged portion (K) is rotated out of the weight-bearing interface. The ball is fixed to the femur after the procedure by a compression plate and screw (**Figure 8a**).

It is noted however that either Sioufi was incorrect in their description of the area in which cuts were made or that a second valid definition of the trochanteric and subtrochanteric areas exists. Applicant is directed to http://www.ota.org/compendium/femur.pdg (pages attached) from the Journal of Orthopedic Trauma (Volume 10, Supplemental 1, 1996). It is clear from Figure 31-A that the trochanteric area is exactly the area that Sioufi is cutting through in order to rotate the head of the femur independent of the greater trochanter.

Response to Arguments

Applicant's arguments filed on February 9th, 2006 have been fully considered but they are not persuasive. Applicant alleges that Sioufi cuts through the subtrochanteric area while their device does not. It is clear from the drawings of Sioufi that they cut through the same region as applicant does. It is further noted that should the evidence provided in the current Office Action demonstrating the trochanteric area from the Journal of Orthopedic Trauma be correct, that it is clear the method of Sioufi meets the

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claims as currently submitted. Should applicant confirm that the Journal article is a correct depiction of the trochanteric area, the rejection under enablement would be withdrawn. The rejection under new matter would remain.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard R. Shaffer whose telephone number is 571-272-8683. The examiner can normally be reached on Monday-Friday during (7am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard Shaffer June 1st, 2006

Dichard Shaffe

SUPERVISORY FATENT EXAMINER